

Products that qualify as medicines, drugs, or medical appliances are taxed at the reduced sales tax rate of 1% plus applicable local taxes. See 86 Ill. Adm. Code 130.310. (This is a GIL.)

April 19, 2006

Dear Xxxxx:

This letter is in response to your letter dated December 9, 2005, in which you request information. We apologize for the delay in responding. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

In a phone conversation with your sales tax personnel, it was recommended that I send you, or your legal department, the following list of items to be sold at retail from my business. Upon receipt, you would then rule as to whether sales tax was to be collected at the full rate, a reduced rate, or at an exempt status. Your personnel stated that previously there was a list of specific items subject to the rates or exemptions, but a newer law eliminated that list.

Please write me with your judgments on each of the following items as to their sales-tax liabilities. Also, let me know if any of these items fall into the ST-1, line 5a or 12a categories.

Thank you in advance for all your help.

DEPARTMENT'S RESPONSE

For useful information regarding the taxation of food, drugs, medicines and medical appliances, we refer you to the Department's regulation at 86 Ill. Adm. Code 130.310. Those products that qualify as medicines, drugs, or medical appliances are taxed at the reduced tax rate of 1% plus applicable local taxes. Those that do not qualify for the low rate are taxed at the State rate of 6.25%, plus applicable local taxes.

The definition of a medical appliance is "an item which is intended by its manufacturer for use in directly substituting for a malfunctioning part of the body." Please note that 86 Ill. Adm. Code 130.310(c)(2) provides that medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients, or purchased directly by individuals. In addition, not all items prescribed by physicians or other licensed health care professionals qualify for the low rate. A medicine or drug is defined at Section 130.310(c)(1) as "any pill, powder, potion, salves, or other preparation intended by the manufacturer for human use and which purports on the label to have medicinal qualities."

Examples of items that qualify for the reduced rate are corrective medical appliances such as hearing aids, eyeglasses and contact lenses. As a general proposition, diagnostic, treatment, and rehabilitative equipment items do not qualify for the reduced rate of tax as medical appliances because such items are not "for use in directly substituting for a malfunctioning part of the body," 86 Ill. Adm. Code 130.310(c)(2).

You can determine the tax status of the items listed in your letter by applying the principles set forth in the regulation. For example, if the eye drops make medicinal claims, they will be subject to sales tax at the low rate. In the unlikely event that they do not make medicinal claims, the eye drops are subject to sales tax at the high rate.

Vitamins are considered to be food. As such, vitamins are subject to the low rate of tax applicable to food.

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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